

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON,

Plaintiff,

v.

THE GEO GROUP, INC.,

Defendant.

CIVIL ACTION NO. 3:17-cv-05806-RJB

STIPULATED JOINT MOTION TO
SEAL DOCUMENTS AND
PROPOSED ORDER

I. INTRODUCTION

The Parties, by and through their respective counsel, and in compliance with Local Civil Rule (LCR) 5(g) and 10(g), submit this stipulated joint motion to permit Washington to file, under seal, documents that were marked or designated by Defendant, The GEO Group, Inc. (GEO) or Immigration and Customs Enforcement (ICE), as “confidential” under the terms of the Stipulated Protective Order, ECF 70. The documents to be filed under seal are identified in the chart attached as Exhibit A. The documents at issue are exhibits to the Baker Declaration in Support of Washington’s Motion for Summary Judgment. The Stipulated Protective Order entered in this matter, ECF 70, requires Washington to file under seal material GEO or another party designates confidential if the confidentiality designation is not withdrawn. Washington advised GEO that it intended to rely upon confidential documents for its motion and requested that GEO reconsider the confidential designations. GEO reviewed the material and confirmed that it should be designated “confidential” under the Stipulated Protective Order and has

1 proposed redactions where applicable. The Parties now file this stipulated motion to ensure
2 compliance with the Stipulated Protective Order.

3 The Court should authorize the filing of these documents under seal for purposes of the
4 accompanying motion for summary judgment. Filing these documents under seal complies with
5 Washington's obligations under the Stipulated Protective Order, protects against disclosure of
6 GEO's asserted confidential financial and proprietary information, and supports the Court's
7 ability to make informed decisions about the parties' arguments.

8 II. AUTHORITY

9 This motion is brought in accordance with Federal Rule of Civil Procedure 26(c), LCR
10 26(c), LCR 5(g), LCR 10(g), and the terms of the Stipulated Protective Order, ECF 70.

11 Rule 26(c) provides for the entry of "any order which justice requires to protect a party
12 or person from annoyance, embarrassment, oppression or undue burden or expense." Pursuant
13 to LCR 26(c), the Stipulated Protective Order protects specific categories of confidential,
14 proprietary, or private information, but "does not presumptively entitle the parties to file
15 confidential information under seal." LCR 26(c)(2); ECF 70 at 2, ¶ 1.

16 GEO designated the documents at issue as "Confidential" and purportedly falling within
17 the following categories of "Confidential" documents covered by the Stipulated Protective
18 Order:

19 3. Business financial information, including non-public tax information,
20 contracts, expenditure reports, and internal records of payment or cost summaries
21 that incorporate a) staffing information and compensation; b) security
22 information; or c) proprietary and competitive client and vendor information;

23 4. Personal immigration information or status, including resident
24 identification numbers, A files, and all immigration administrative records and
25 non-public immigration records;

26 5. ...
6. GEO safety and security-related policies and procedures and
communications, including evacuation, fire safety, security system, staffing,
physical plant, and emergency protocol information;

7. Internal GEO communications or reports regarding the administration
of the Northwest Detention Center ... including internal audits, and internal GEO

1 communications containing proprietary and competitive staffing information or
2 client and vendor information;

3 9. Communications with Immigration and Customs Enforcement (“ICE”)
4 officials containing sensitive or proprietary information regarding the
5 administration of the Northwest Detention Center or any other facility or center
6 operated by the GEO Group, including staffing information or competitive client
7 and vendor information;

8 ...

9 11. Employee rosters and staffing plans.

10 12. Non-public depictions of GEO facilities, including but not limited to,
11 facility diagrams or layouts, photos, audio, and CCTV video.

12 ECF No. 70 at 2.

13 GEO’S STATEMENT RE LCR 5(g)(3)(B)

14 GEO designated certain documents as “Confidential” consistent with the text of the
15 Stipulated Protective Order because it has a good faith belief that public disclosure of those
16 documents will cause financial, competitive, or other serious harm to GEO. For example, GEO
17 designated documents as “Confidential” when they contain the names and Alien Registration
18 Numbers for federal detainees, information about those detainees, communications and contracts
19 with ICE, and internal reports or policies that identify GEO’s sensitive pricing or staffing
20 information that helped GEO to obtain those contracts. If such information were disclosed to
21 the public, GEO will suffer serious business harm because its competitors could use the pricing,
22 staffing, or other sensitive business information to unfairly compete against GEO and siphon
23 away its business. *See, e.g., Seiter v. Yokohama Tire Corp.*, No. C08-5578 FDB, 2009 WL
24 2461000, at *2 (W.D. Wash. Aug. 10, 2009) (holding the defendant established good cause for
25 protective order due to potential competitive harm from disclosure of pricing policies and other
26 confidential business practices). In addition, GEO would suffer financial and potentially legal
consequences if it disclosed personal information about the detainees in violation of The Privacy
Act of 1974, 5 U.S.C. § 552a. Further, ICE has designated some information that GEO produced
as “Confidential” and GEO lacks the ability to withdraw those designations.

GEO reviewed the list of documents that Washington provided on July 1, 2019, and prepared the following chart identifying the basis for its confidentiality designations. Although GEO is amenable to Washington redacting all confidential information from the following documents, GEO understands that Washington seeks to submit the confidential content of these documents and deposition testimony for their dispositive motion, so redaction is not possible.

Exhibit	Bates Number	Basis of confidentiality
Henderson 36	GEO-State 029834-59	Business financial and competitive information; SPO ¶¶ 2(3), 2(8)
McHatton 129	GEO-State 036825-7027	Business financial and competitive information; SPO ¶¶ 2(3), 2(8).
GEO 30(b)(6) 18	GEO-State 005744	Business financial and competitive information; SPO ¶ 2(3), 2(8).
Singleton 109	GEO-State 231194	Internal report re administration of facility including detainee information; SPO ¶¶ 2(4) & 2(8).
GEO 30(b)(6) 20	GEO-State 019281	Internal report re administration of facility; SPO ¶ 2(8).
Singleton 91	GEO-State 036481	Safety/security, SPO ¶ 2(7).
Singleton 101	GEO-State 241568	Safety/security, SPO ¶ 2(7).
GEO 30(b)(6) 9		Internal report re administration of facility; SPO ¶ 2(8).
Singleton 81	GEO-State 230007-20	Internal report re administration of facility including detainee information; SPO ¶¶ 2(4) & 2(8)
Singleton 128	GEO-State 044801-10	Internal report re administration of facility; SPO ¶ 2(8).
Singleton 78	GEO-State 029337-38	Internal report re administration of facility; SPO ¶ 2(8).
Singleton 119	GEO-State 047504-05	Internal report re administration of facility; SPO ¶ 2(8).
McHatton 136	GEO-State 000783-84	Internal report re administration of facility; SPO ¶ 2(8).
Scott 169	GEO-State 049435	Internal report re administration of facility; SPO ¶ 2(8); safety and security; SPO ¶ 2(7).
Henderson 57	GEO-State 051384	Internal report re administration of facility including detainee information; SPO ¶ 2(4) & 2(8)
	GEO-State 283813-14	Internal report re administration of facility; SPO ¶ 2(8); ICE information; SPO ¶ 2(9).
Henderson 27	GEO-State 009340	Internal report re administration of facility; SPO ¶ 2(8).
GEO 30(b)(6) 10	GEO-State 000577-82	Internal report re administration of facility; SPO ¶ 2(8).

Henderson 63	GEO-State 044596-601	Internal report re administration of facility; SPO ¶ 2(8).
Henderson 49	GEO-State 048485	Safety and security; SPO ¶ 2(7).
Henderson 35	GEO-State 029807-33	Internal report re administration of facility; SPO ¶ 2(8)
McHatton 142	GEO-State 016066-90	GEO safety and security information; SPO ¶ 2(7); internal GEO information regarding audits or other competitive or proprietary information; SPO ¶ 2(8).
McHatton 146	GEO-State 020014	Internal report re administration of facility; SPO ¶ 2(8).
McHatton 139	GEO-State 027416-38	Internal report re administration of facility; SPO ¶ 2(8); GEO safety and security information; SPO ¶ 2(7).
Scott 168	GEO-State 252347	Internal report re administration of facility; SPO ¶ 2(8).
Singleton 96	GEO-State 048705	Internal report re administration of facility; SPO ¶ 2(8)
Henderson 71	GEO-State 241347	Internal communication re administration of facility, references detainees; SPO ¶¶ 2(8), 2(4)
Henderson 42	GEO-State 019374-76	Internal report re administration of facility; SPO ¶ 2(8)
Henderson 43	GEO-State 021123-24	Internal report re administration of facility; SPO ¶ 2(8)
McHatton 135	GEO-State 037347	Internal report re administration of facility; SPO ¶ 2(8)
McHatton 140	GEO-State 027439-69	Internal report re administration of facility; SPO ¶ 2(8); GEO safety and security information; SPO ¶ 2(7).
McHatton 141	GEO-State 028704-26	Internal report re administration of facility; SPO ¶ 2(8); GEO safety and security information; SPO ¶ 2(7).
	GEO-State 063421-52	Internal communication re administration of facility, references detainees; SPO ¶¶ 2(8), 2(4).
Singleton 115	GEO-State 104147-70	Internal communication re administration of facility, references detainees; SPO ¶¶ 2(8), 2(4).
GEO 30(b)(6) 16	GEO-State 006269-70	Internal report re administration of facility; SPO ¶ 2(8).
Henderson 38	GEO-State 039161-62	Internal communication re administration of facility; SPO ¶ 2(8).
Henderson 39	GEO-State 049433-34	Internal communication re administration of facility; SPO ¶ 2(8).
Singleton 93	GEO-State 019324-25	Internal report re administration of facility; SPO ¶ 2(8).

1	Singleton 97	GEO-State 213595	Internal communication re administration of facility, references detainees; SPO ¶¶ 2(8), 2(4).
2	Singleton 104	GEO-State 103716	Internal communication re administration of facility, references detainees; SPO ¶¶ 2(8), 2(4).
3	Singleton 105	GEO-State 231181-82	Internal communication re administration of facility, references detainees; SPO ¶¶ 2(8), 2(4).
4	McHatton 138	GEO-State 041371	Internal report re administration of facility; SPO ¶ 2(8).
5	Henderson 51	GEO-State 109476	Internal report re administration of facility with detainee information; SPO ¶¶ 2(4), 2(8).
6	Henderson 55	GEO-State 238991-92	Internal communication re administration of facility; SPO ¶ 2(8); ICE information SPO ¶ 2(9).
7	Henderson 64	GEO-State 104171-90	Internal report re administration of facility with detainee information; SPO ¶¶ 2(4), 2(8).
8	Henderson 65	GEO-State 104477-98	Internal report re administration of facility with detainee information; SPO ¶¶ 2(4), 2(8).
9	Henderson 66	GEO-State 104702-23	Internal report re administration of facility with detainee information; SPO ¶¶ 2(4), 2(8).
10	Henderson 67	GEO-State 106357-90	Internal report re administration of facility with detainee information; SPO ¶¶ 2(4), 2(8).
11	Kimble 176	GEO-State 047699	Internal report re administration of facility; SPO ¶ 2(8).
12	Kimble 177	GEO-State 047681	Internal report re administration of facility; SPO ¶ 2(8).
13	Kimble 178	GEO-State 047694	Internal report re administration of facility; SPO ¶ 2(8).
14	GEO 30(b)(6) 5	GEO-State 003538	GEO safety and security information; SPO ¶ 2(7), 2(12).
15	Kimble 187	GEO-State 033144	Business financial and competitive information; SPO ¶ 2(3), also clawed back by GEO pursuant to Dkt. # 61.
16	Inspection Photographs	To be produced	GEO safety and security information; SPO ¶¶ 2(7), 2(12)
17	Deposition	Pages	Basis of confidentiality
18	GEO 30(b)(6)	142	Business financial and competitive information; SPO ¶ 2(3).
19		189	
20		190	Competitively-sensitive staffing information; SPO ¶ 2(8).
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Henderson	35-38 61-63 67 112-115 165-166 171-172 181-82 78-81 183-86 196	Competitively-sensitive staffing information; SPO ¶ 2(8). Business financial and competitive information; SPO ¶ 2(3). Detainee information, SPO ¶ 2(4)
Singleton	15 21 143-144 141 146 227	Competitively-sensitive staffing information; SPO ¶ 2(8). Safety/security; SPO ¶ 2(7); internal administration of facility, SPO ¶ 2(8). Detainee name, SPO ¶ 2(4)
McHatton	90 146-150 146	Internal GEO information regarding audits or other competitive or proprietary information; SPO ¶ 2(8). Confidential information pertaining to ICE; SPO ¶ 2(9) Safety/security, SPO ¶ 2(7)
Kimble	108	Safety/security, SPO ¶ 2(7).
GEO Has Not Reviewed the Below Documents But Believes that the Below Documents Are Confidential Internal GEO Communications Protected Under 2(8) of the SPO		
Kimble 14	GEO-State 003477	
Singleton 121	GEO-State 036819	

III. CERTIFICATION OF COUNSEL

The parties certify, pursuant to LCR 5(g)(3)(A), that counsel for Washington, La Rond Baker, and counsel for GEO, Kristin Asai, conferred on July 2, 2019 regarding the need to file these documents under seal. Washington shared a list of documents it intended to file under seal accompanying its Motion for Summary Judgment. Each of these documents have been

1 designated as “confidential” pursuant to the Stipulated Protective Order, ECF 70. GEO reviewed
2 the confidentiality designation of these documents and confirmed that they should, indeed, be
3 marked “confidential” and be filed under seal. Due to the fact that some citations to deposition
4 transcripts contain portions designated confidential and in an abundance of caution, Washington
5 has filed some non-designated transcript pages under seal. The parties have jointly participated
6 in the preparation and submission of this motion.

7 IV. CONCLUSION

8 The parties, by and through their counsel, stipulate and agree to entry of the Order, below.

9
10 Dated this 2nd day of July, 2019.

11 Jointly submitted,

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13 Attorney General of Washington

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3 **[PROPOSED] ORDER**

4 The Court, having considered the representations and stipulations of counsel set forth
5 above, and finding good cause, hereby GRANTS the Stipulated Joint Motion to Seal Documents
6 and authorizes the filing of financial documents marked “confidential” to be filed under seal.

7 **IT IS SO ORDERED**

8 Dated this ____ day of _____, 2019.

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10 UNITED STATES DISTRICT JUDGE ROBERT J. BRYAN
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I also certify that all exhibits filed under seal were sent to all parties via secure file transfer site:

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Dated this 2nd day of July, 2019 in Seattle, Washington.

s/ Caitilin Hall